

TEXAS WATCH

September 8, 2020

Via electronic mail: Sergio.Cavazos_HC@house.texas.gov

The Honorable Eddie Lucio III, Chair
Texas House Insurance Committee
Texas State Capitol
1101 Congress Avenue
Austin, TX 78701

Dear Chairman Lucio and Members of the Committee:

Thank you for this opportunity to comment on interim charges and other areas of study before the committee. The COVID-19 pandemic has created challenges for consumers and businesses alike, and insurance is no exception.

The committee asks: “How many business interruption claims have been filed during the COVID19 pandemic? Did policyholders report issues with being unaware of pandemic-related exceptions to coverage under these policies?”

The single best resource we are currently aware of for such data is the “COVID-19 Complaint Tracker” published by the Hunton Andrews Kurth law firm.¹ If you select the “Insurance” field and look at the tally for the state of Texas, it currently shows 62 complaints, placing us 8th in the country:

California	134
Pennsylvania	125
Florida	111
Illinois	100
Ohio	79
New York	71
Washington	65
Texas	62

One assumes the vast majority of these insurance complaints concern business interruption matters. I imagine the firm would be happy to provide additional clarity on their count to the committee.

Generally speaking, insurance carriers do a poor job of communicating the terms of the coverage provided in clear and understandable language. When endorsements are layered on top of policies, the complexity is only compounded. This applies to individual consumers and even sophisticated business consumers. Understanding many consumers do not have the means to engage counsel of their own,

¹ See <https://www.huntonak.com/en/covid-19-tracker.html> (last accessed 9/8/20).

insurers may also seek to exploit ambiguities contained within the policies they have written by frivolously claiming exceptions and exclusions that may not exist in reality.

Insurance is not your typical product as it is one you never hope to use. Dense legal documents should be decoded for the purchasing public, and we commend the Office of Public Insurance Counsel on their efforts to create policy comparison tools for that purpose.² With additional funding and staff, OPIC may be able to provide similar tools for the use of business consumers.

In addition, the Texas Department of Insurance could use its approval (and disapproval) authority to force changes in policies that are unduly complex when the carrier files the form or endorsement with the department.

We hope you find this information useful to your important work. Always feel free to call upon us as a resource.

Sincerely,

/s/

Ware Wendell
Executive Director

² See <https://www.opic.texas.gov/resources/policy-comparison-tool/> (last accessed 9/8/20).